

Application No. 09/914,205
Amdt. dated June 2, 2005
Reply to Office Action of March 3, 2005

4

REMARKS/ARGUMENTS

The Examiner repeated the telephoned restriction requirement. The applicants hereby confirm their election of the claims of Group II, namely claims 16 to 18, drawn to peptides. The claims of Group I, Claims 1 to 15 and 19 have been deleted. Such deletion is made without prejudice to applicants right to file one or more divisional or continuation applications directed to such subject matter. It is submitted that the restriction requirement has been met.

The Examiner indicated that applicants had not fully complied with one or more conditions for receiving the benefit of an earlier filing date under 35 USC 120 or 365(c). In this regard, the paragraph appearing at line 8 to 10 on page 1 has been amended, first to specify that the application is a US National Phase filing from the PCT and second to specify the grant number of the priority application 09/256,194. The paragraph has been relocated to immediately following the title on page 1. It is submitted that applicants claim for benefit of an earlier filing date under 35 USC 120 or 365(c) has been fully complied with.

The Examiner objected the disclosure with respect to the description of Figure 2. The description now refers to Figures 2A to 2E. It is submitted that the informality with respect to the disclosure has been corrected.

The Examiner rejected claims 16 and 17 under 35 USC 102(b) as being anticipated by WO 93/18055 which, the Examiner indicates, discloses a peptide having the same amino acid sequence as SEQ ID No: 3.

Claim 16 has been amended to exclude SEQ ID No: 3 and claim 17, directed thereto, has been deleted. It is submitted that claims 16 and 17, insofar as they remain in the application and in their amended form, can no longer be considered to be anticipated by WO 93/18055 and hence the rejection thereof under 35 USC 102(b), should be withdrawn.

Application No. 09/914,205
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5

The Examiner rejected claims 16 to 18 under 35 USC 102(b) as being anticipated by Verrier et al.

The Examiner indicates that the claims use the word "having" and considers the claims to be broad similar to the word "comprising". Having regard to this interpretation, the Examiner considered that the peptides of claims 16 to 18 are not limited to the nonamers listed as SEQ ID No: 3 to 14, but encompass any polypeptide which contains at least one of the sequences.

The applicants do not subscribe to the Examiner's interpretation of the word "having", but rather believe that the term is more restrictive and meaning consisting of. Claims 16 and 18 have been amended to replace the terms "having" (claim 16) and "has" (claim 18) by the term "consisting of".

The Verrier et al reference does not describe any of the peptide consisting of SEQ ID Nos. 3 to 14 and neither does the Examiner assert that such is the case. Accordingly, it is submitted that claims 16 to 18, insofar as they remain in the application and in their amended form, can no longer be considered to be anticipated to Verrier et al and hence the rejection thereof under 35 USC 102(b), should be withdrawn.

The Examiner rejected claims 16 to 17 under 35 USC 102(e) as being anticipated by US Patent No. 5,976,541 to Berzofsky et al (the '541 patent), on the basis of the disclosure of a peptide which consists of an amino acid sequence identical to that of SEQ ID No.3. As noted with respect to the rejection based on WO 93/18055, which corresponds to the '541 patent, reference to SEQ ID No.3 has been deleted from claim 16 and claim 17 has been deleted.

Accordingly, it is submitted that claims 16 and 17, insofar as they remain in the application and in their amended form, can no longer be considered to be anticipated by the '541 patent and hence the rejection thereof under 35 USC 102(e) as being anticipated by the '541 patent, should be withdrawn.

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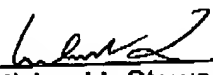
6

The Examiner rejected claim 16 under 35 USC 102(e) as being anticipated by US Patent No. 6,534,482 to Fikes et al. The Examiner indicated that Fikes et al discloses a peptide consisting of a sequence which is identical to SEQ ID No: 10. Claim 16 has been amended to remove reference to SEQ ID No.10.

Accordingly, it is submitted that claim 16, in its amended form, can no longer be considered to be anticipated and hence the rejection of the claims under 35 USC 102(e) as being anticipated by Fikes et al, should be withdrawn.

It is believed that this application is now in condition for allowance and early and favourable consideration and allowance are respectfully solicited.

Respectfully submitted,



Michael I. Stewart
Reg. No. 24,973

Toronto, Ontario, Canada,
(416) 595-1155
FAX No. (416) 595-1163